



Federal Communications Commission  
Washington, D.C. 20554

May 14, 2014

**DA 14-648**  
**Released: May 14, 2014**

KWGN, LLC  
100 E. Speer Boulevard  
Denver, Colorado 80203

Re: KWGN-TV, Denver, CO  
Facility ID No. 35883  
FRN: 0021781737

Dear Licensee:

This letter refers to your license renewal application for KWGN-TV (the "Station")<sup>1</sup> and hereby admonishes the Station for its failure to comply with the limits on commercial matter in children's programming.

In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewals the extent to which the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted Section 73.670 of the Rules, 47 C.F.R. § 73.670, which limits the amount of commercial matter which may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission also reaffirmed and clarified its long-standing policy against "program-length commercials." The Commission defined a "program-length commercial" as "a program associated with a product, in which commercials for that product are aired," and stated that the entire duration of any program-length commercial would be counted as commercial matter for the purpose of the children's television commercial limits.<sup>2</sup> The commercial limitations became effective on January 1, 1992.<sup>3</sup>

On November 27, 2013, you filed the above-referenced license renewal application for the Station. In response to Section IV, Question 5 of that application, you attached an exhibit which admitted to potential violations of our children's commercial time limits.<sup>4</sup> The exhibit first reported that, on December 23, 2006, the Station aired a commercial (for Post Cereal's Cocoa Pebbles) during the "Xiaolin Showdown" program that contained glimpses of characters from the program on the screen. The exhibit notes that the images appeared twice, each for two seconds in duration, and the display was no more than a tenth of the overall screen display.

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<sup>1</sup> File No. BRC DT-20131202ATF.

<sup>2</sup> *Children's Television Programming*, Report and Order, 6 FCC Rcd 2111, 2218, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991).

<sup>3</sup> *Children's Television Programming*, 6 FCC Rcd 5529, 5530 (1991).

<sup>4</sup> File No. BRC DT-20131202ATF, Exhibit 22.

Based on the information provided describing the commercial, it appears that this incident is an example of “host-selling.” Host-selling involves program-related characters promoting any product during the program in question and is a practice that the Commission has denounced because it takes unfair advantage of the trust that children place in such characters.<sup>5</sup> In this regard, the Commission has stated that “host-selling encompasses any character endorsement - not just direct vocal appeals - that has the effect of confusing a child viewer from distinguishing between program and non-program material.”<sup>6</sup> For example, the Commission has determined that “advertisements featuring the same type of animation that is regularly featured in the accompanying program constitutes host-selling.”<sup>7</sup> Based on the information before us, we believe the commercial broadcast on December 23, 2006, violated the Commission's host-selling policy.

Your exhibit also reported that, on October 28, 2006, the Station aired the children’s program “Scooby-Doo” and a failure of the video playback system resulted in a segment being skipped and a commercial break inadvertently airing twice, resulting in a commercial overage of one minute. In *Children's Television Programming*, the Commission specifically recognized that licensees may experience occasional emergency scheduling changes” which would be taken into consideration in determining whether “extenuating circumstances” mitigated any resulting children's television violations.<sup>8</sup> The technical failure here constitutes an extenuating circumstance that means this overage shall be considered de minimis.<sup>9</sup>

Although we consider any violation of our rules limiting the amount of commercial matter in children’s programming to be significant, the violations described in your renewal application appear to have been isolated occurrences. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we **ADMONISH** you for these violations of the children’s television commercial limits rule and policies described in the Station’s renewal application. We remind you that the Commission expects all commercial television licensees to comply with the limits on commercial matter in children’s programming.

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<sup>5</sup> *WVTV Licensee, Inc.*, Forfeiture Order, 25 FCC Rcd 3741, 3743 (Vid. Div. 2010).

<sup>6</sup> *WHYY, Inc.*, Admonishment Letter, 7 FCC Rcd 7123 (MMB 1992).

<sup>7</sup> *Id.*

<sup>8</sup> *WTOC License Subsidiary, LLC*, Letter Decision, 28 FCC Rcd 7231, 7232 (Vid. Div. 2013) (citing *Children's Television Programming*, Report and Order, 6 FCC Rcd 2111, 2126 n.123, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991)).

<sup>9</sup> *Id.* (citing *WFTV, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 6140, 6142 n.8 (2010)).

Accordingly, **IT IS ORDERED** that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to the licensee at the address listed above.

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc:  
Jason Roberts  
Tribune Company  
435 North Michigan Avenue  
Chicago, Illinois 60611